IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WA.No. 701 of 2007()

AGAINST THE JUDGEMENT IN WPC.25765/2006 Dated 20/02/2007
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APPELLANTS/PETITIONERS
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1. K.P.ALIAS,GOVT.CONTRACTOR, KOORANTHAZHATHUPARAMBIL HOUSE,PULIYANAM P.O ANGAMALY, VIA ERNAKULAM DISRICT.

2. T.V.MATHAI KUNJU,GOVT.CONTRACTOR, THELAPPILLY HOUSE, PULIYANAM P.O, ANGAMALY VIA ERNAKULAM DISTRICT.

3. P.T.BABU,GOVT.CONTRACTOR, PALLIPPADAN HOUSE,KARUKUTTY P.O,ERNAKULAM DISTRICT.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER

RESPONDENTS/RESPONDENTS:
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1. STATE OF KERALA REP.BY ITS SECRETARY TO GOVERNMENT,DEPT.OF WATER RESOURCES,GOVT. SECRETARIAT,THIRUVANANTHAPURAM.

2. THE SUPERINTENDING ENGINEER, IDAMALAYAR IRRIGATION PROJECT,PROJECT CIRCLE,PIRAVOM, ERNAKULAM DISTRICT.

3. THE EXECUTIVE ENGINEER, IDAMALAYAR IRRIGATION PROJECT,CHALAKUDY,THRISSUR DISTRICT.

4. THE SUPERINTENDING ENGINEER, P.W.D (ROADS & BRIDGES),CENTRAL CIRCLE,ALUVA,ERNAKULAM.

5. THE EXECUTIVE ENGINEER, P.W.D (ROADS DIVISION),THRISSUR.

6. THE DIRECTOR OF VIGILANCE & ANTI CORRUPTION BUREAU,THIRUVANANTHAPURAM.

BY SR. GOVERNMENT PLEADER SMT. MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 701 OF 2007

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Dated this the 4th June, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Petitioners in the Writ Petition No.25765 of 2006 are the appellants . They are all contractors. They have executed the contract work that was awarded to them.

2. The respondents herein on the basis of a letter received by them, had initiated certain enquiry proceedings against the petitioners/appellants herein and similarly placed persons. In view of the pendency of the enquiry, the respondents have paid only 50% of the amount awarded in the contract.

3. Since there was enormous delay in completion of the enquiry proceedings, the petitioners were before this court inter alia seeking for a direction to the respondents to refund the 50% of the balance amount payable to them, since they have executed the contract awarded to them to the satisfaction of the respondents.

4. The learned single Judge had disposed of the Writ Petition by judgment dated 20.02.2007. Aggrieved by certain observations made in the said judgment,

the appellants are before us in this appeal.

5. Learned counsel appearing for the appellants would submit that there is no justification for the respondents to retain the 50% of the amount that should have been disbursed to the petitioners/appellants. According to the learned counsel for the appellants, the respondents are taking their own time to complete the enquiry proceedings, said to have been initiated against the appellants. Therefore the request is made to direct the respondents to disburse the 50% of the balance amount payable to the petitioners/appellants pursuant to the contract work that was awarded to them by accepting the bank guarantee.

6. Learned Government Pleader, on instruction would submit that the respondents are not agreeable to the suggestion made by the appellants and by this court also.

7. The admitted facts are:

The appellants are contractors and they have been awarded the contract by the respondents for execution of certain works. They have completed the work to the satisfaction of the respondents. After the completion of the contract work, the respondents were expected to pay the amount due to the appellants within a reasonable time. But due to the pendency of certain enquiry proceedings, said to have been initiated against them, the respondents, in our opinion, are illegally holding back the amounts payable to the appellants.

8. The action of the respondents, in our opinion, is not only improper but also illegal and arbitrary. Therefore, appropriate directions require to be issued to the respondents. Accordingly the following:

O R D E R

i) Writ Appeal is allowed.

ii) The respondents shall release the balance amount, payable to the appellants within a period of one month from today, on furnishing bank guarantee which will have a life for a period of two years, by the appellants to the satisfaction of the respondents.

With these observations and directions, Writ Appeal is disposed of

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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